

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DOMINIQUE LEE MOFFATT,)	
Petitioner,)	C.A. No. 21-293 Erie
)	
v.)	District Judge Susan Paradise Baxter
)	Magistrate Judge Richard A. Lanzillo
DEREK OVERLANDER, et al.,)	
Respondents.)	

MEMORANDUM ORDER

This *pro se* action for habeas corpus relief pursuant to 28 U.S.C. § 2254 was filed on October 25, 2021, by Petitioner Dominique Lee Moffatt, an inmate incarcerated at the State Correctional Institution at Forest in Marienville, Pennsylvania (“SCI-Forest”). In his habeas petition, Petitioner challenges the judgment of sentence that was imposed by the Court of Common Pleas of Erie County on January 27, 2015. In particular, Petitioner raises two claims of ineffective assistance of counsel arguing that his trial counsel failed to challenge the application of a deadly weapon enhancement to his sentence. The petition was referred to Chief United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.


On December 11, 2023, Judge Lanzillo issued a Report and Recommendation (“R&R”) recommending that the petition be denied and that the issuance of a Certificate of Appealability be denied [ECF No. 24]. Specifically, Judge Lanzillo found that Plaintiff’s claims of ineffective assistance of counsel are barred by AEDPA’s one-year statute of limitations, and that Plaintiff failed to exhaust his claims by fairly presenting them to the state courts for review. Objections to

the R&R were due to be filed by December 28, 2023; however, no objections have been received from Petitioner.

Thus, after *de novo* review of the petition and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 18th day of January, 2024,

IT IS HEREBY ORDERED that the within petition for a writ of habeas corpus is DISMISSED, with prejudice, and that a Certificate of Appealability is DENIED. The report and recommendation of Chief Magistrate Judge Lanzillo, dated December 11, 2023 [ECF No. 24], is adopted as the opinion of this Court. As there are no further matters pending before the Court relative to the instant petition, the Clerk is directed to mark this case "CLOSED."


SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Richard A. Lanzillo
Chief United States Magistrate Judge

All parties of record